

Mailing Date: JAN 17 2008

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1911X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-357067
v.	:	
	:	LID - 46704
OLD BLUE STAR, INC.	:	
602 W. KING ST.	:	
LANCASTER, PA 17603-3633	:	
	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. H-AP-SS-EHF-1159	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 16, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against OLD BLUE STAR, INC., License Number H-AP-SS-EHF-1159 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)] in that Licensee, by its servants, agents or employes, issued checks or drafts dated June 19, 2007, in payment for purchases of malt or brewed beverages, when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The investigation which gave rise to the citation began on July 9, 2007 and was completed on July 24, 2007; and notice of the violation was sent to Licensee by Certified Mail on July 30, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on December 5, 2007 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 602 W. King St., Lancaster, PA 17603-3633 by certified mail, return receipt requested and by first class mail on October 18, 2007. The notice set forth the date and time of the hearing as December 5, 2007 at 10:00 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On June 19, 2007 Licensee purchased malt or brewed beverages from Wilsbach Distributors, Inc. In payment therefore, Licensee issued its Check No. 1321 in the amount of \$355.58. The check was returned by Licensee's bank for insufficient funds (N.T. 8-9).

2. On March 16, 2007 Licensee was sent a warning letter with regard to NSF Check No. 1056, dated February 6, 2007, in the amount of \$320.97, issued to Wilsbach Distributors, Inc.

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since September 1, 2000, and has had seven prior violations:

Citation No. 02-0617. Fine \$250.00.

1. Sold an unlimited or indefinite amount of alcoholic beverages for a fixed price. December 20, 2001.

Citation No. 04-0254. Fine \$3,750.00.

1. Sales to visibly intoxicated persons. May 17, 2003.
2. Used loudspeakers or devices whereby music could be heard outside. February 20, 26, March 5, 12, April 3, 9, 23 and May 8, 2003.
3. Noisy and/or disorderly operation. February 20, 26, March 5, 12, April 3, 9, 23 and May 8, 2003.

4. Sales between 2:00 a.m. and 7:00 a.m. December 27, 2003.
5. Engaged in unlawful discrimination in that you admitted female patrons free of charge while charging an admission fee to male patrons. October 16 and November 13, 2003.

Citation No. 04-2041. Fine \$2,000.00.

1. Sales to visibly intoxicated persons. September 4, 2004.

Citation No. 05-0435. Fine \$1,100.00.

1. Sold liquor for consumption off premises. January 19 and 22, 2005.
2. Failed to constantly and conspicuously expose your license under a transparent substance. November 24, December 6, 7, 2004 and January 19, 2005.
3. Discounted the price of alcoholic beverages in excess of 2 hours in a business day. January 19, 2005.
4. Used loudspeakers or devices whereby music could be heard outside. December 23, 2004.

Citation No. 05-0998. Fine \$1,200.00 and 1 day suspension.

1. Sales to a minor. April 14, 2005.

Citation No. 05-2550. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 10, 2005.

Citation No. 06-0690. Fine \$3,000.00, 2 days suspension and RAMP training mandated.

1. Sales to a minor. January 29, 2006.
2. Sold liquor and/or malt or brewed beverages on credit in contravention of the Liquor Code and Title 40 of the Pennsylvania Code. February 13, 2006.
3. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests are insufficient in number and/or inadequately equipped. January 29 and February 13, 2006.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee OLD BLUE STAR, INC., pay a fine of \$250.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 7th day of January, 2008.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

Detach here and submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make check payable to the Commonwealth of Pennsylvania and mail to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661

Citation No. 07-1911X